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26 October 2012

The Hon Stephen Smith MP  
Minister for Defence  
Parliament House  
Canberra ACT 2600

Dear Minister,

**RE: Defence Trade Controls Bill 2011**

The National Tertiary Education Union wishes to take this opportunity to again write to you on behalf of our members, who include university and research institute staff.

We understand that debate about further amendments to the Defence Trade Controls Bill may occur as soon as Monday 29 October 2012.

We would like to advise you that the NTEU supports the proposed amendments to the Defence Trade Controls Bill 2011 from Universities Australia. These amendments relate to:

- The insertion of a section that excludes research, education and information in the public domain,
- The removal of an amendment that introduces a crime for publishing certain kinds of information, and
- Amendments to ensure the transitional arrangements captured in the legislation fully reflect the recommendations made in the Senate Committee's final report.

We urge consideration of these amendments as they would very significantly improve the legislation.

The Australian Labor Party has consistently championed the principle of freedom of intellectual inquiry. This was articulated through the introduction of provisions in 2011 that ensure funding allocated under the *Higher Education Support (HESA) Act 2003* is dependent upon the existence of academic freedom policies at every eligible higher education provider. Previous to this, Labor also opposed the introduction of sedition offences by the Howard Government, which detrimentally impacted upon academic freedom.

This position is also commensurable with Labor's commitment to the integration of the UN human rights system into Australian law. We would point out that the freedom of intellectual inquiry is a principle enshrined in the *1997 UNESCO Recommendation concerning the Status of Higher Education Teaching Personnel* which states, "academic freedom lies at the very heart of higher education and provides the strongest guarantee of the accuracy and objectivity of scholarship and research".

Perhaps the final important consideration should be the acknowledged role freedom of communication and informational exchange has for the future prospects of Australian innovation. As

public and civic institutions, universities have a critical role as 'safe harbours' enabling open and transparent intellectual and scientific exchange. We would caution about the potential opportunity cost that would face the Australian economy if Australian researchers began to conclude that their capacity to undertake world-class research would be better served in higher education systems in which they would not so readily risk criminal prosecution for communication or publication of research.

The debate of this Bill requires sensitivity, and for this reason we strongly endorse the amendments proposed by Universities Australia as an important contribution in preserving the principle of freedom of intellectual inquiry and in ensuring Australian universities are competitive in developing world-class scientific research. We urge you to endorse these changes.

Yours sincerely,

JEANNIE REA

**National President**

cc: Minister for Tertiary Education, Skills, Science and Research, Sen the Hon. Chris Evans

Minister for Industry and Innovation, the Hon. Greg Combet, MP

Chair, Senate Committee on Foreign Affairs, Defence and Trade Legislation, Sen. The Hon Ursula Stephens

The Chief Scientist, Professor Ian Chubb

Chair, Universities Australia, Professor Glyn Davis